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C O N F I D E N T I A L SECTION 01 OF 02 KATHMANDU 000371

SIPDIS

STATE FOR SA/INS AND DRL
NSC FOR MILLARD
LONDON FOR POL - GURNEY

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TAGS: PHUM PGOV PTER PREL NP UN

SUBJECT: NEPAL: GOVERNMENT WILL NOT SIGN HUMAN RIGHTS
ACCORD

REF: A. KATHMANDU 0326

B. KATHMANDU 0323 (NOTAL)

Classified By: AMB. MICHAEL E. MALINOWSKI. REASON: 1.5 (B,D)

SUMMARY

1. (C) In a February 27 meeting, de facto Foreign Minister Bekh Bahadur Thapa told the Ambassador that the Government of Nepal (GON) will not sign the proposed human rights accord because the accord implicitly puts the Maoists on the same level as the Government. The GON would, moreover, object to any resolution introduced into the UN criticizing its human rights record. The GON would, however, accept technical assistance to strengthen the National Human Rights Commission, Thapa indicated, adding that the Prime Minister plans to issue a public statement reaffirming the GON's commitment to human rights. Thapa said he had informed a group of European ambassadors of the GON position. The Embassy does not support pressuring the GON to sign the accord, but believes we should urge the GON to implement the international human rights agreements and conventions it has already signed. In addition, we support providing technical assistance to the National Human Rights Commission to assist in the implementation of these agreements. End Summary.

GON WILL NOT SIGN HUMAN RIGHTS ACCORD

2. (U) The Ambassador met with de facto Foreign Minister Ambassador Bekh Bahadur Thapa on February 27 to discuss Government of Nepal (GON) views on whether to sign a draft human rights accord supported by the UN Office of the High Commissioner for Human Rights (OHCHR) and some European donors (Ref A). The Ambassador used the opportunity to pass Amb. Thapa a copy of the just released annual Human Rights Report on Nepal.

3. (SBU) Ambassador Thapa said that he had met with several European ambassadors and the visiting head of the Swiss Agency for Development and Cooperation on February 26. Thapa said he discussed with the delegation King Gyanendra's trips out to the western part of the country (Ref B), the Unified Command, and the Village Defense Forces. He said he described the Village Defense Forces as "just an idea" that the Royal Nepal Army has subsequently "backed away from."

4. (C) Thapa said he told the delegation that the GON will not accept "any imposition of a UN resolution or of censure" on its human rights record. The GON, moreover, will not sign any document that accords equal status to the GON--a legitimate, sovereign government--and the Maoist insurgents, which, in the GON view, the draft accord appears to do. He noted that the GON, USG and the Indian Government all consider the Communist Party of Nepal (Maoist) as a terrorist organization. The GON will continue to respect and promote human rights as described in the Constitution and in the numerous international treaties and conventions it has already signed, he emphasized. Thapa reported that he advised the European envoys that Prime Minister Surya Bahadur Thapa soon will issue a statement outlining the steps the GON is taking to fulfill those commitments. In that statement, the PM will ask international donors to help strengthen GON institutions, including the National Human Rights Commission (NHRC), Thapa said. Such assistance could include "outside advisors." (Note: It is unclear whether "advisors" means "monitors," as proposed by OHCHR. End note.)

5. (C) Thapa said that he had the impression that all of the envoys were satisfied with his answer and were not planning to pursue a CHR resolution or continue to urge signing of the accord. According to Thapa, UK Ambassador Keith Bloomfield added that, with the GON's commitment to implement its human rights obligations under previously signed international treaties, the UK would try to get the

Maoists to sign the draft accord.

AN ACCORD BY ANY OTHER NAME?

16. (C) Ambassador Malinowski responded that he understood GON concerns about the accord as written. He suggested the possibility of the GON signing a different statement--possibly entitled "GON Commitment to Human Rights" or "GON Action Plan for Implementing International Conventions on Human Rights"--that detailed concrete steps the GON plans to take on the international human rights instruments it has already signed. Thapa indicated that the PM's upcoming statement would more or less do just that.

EMBASSY RECOMMENDATION

17. (C) Since the USG has designated the Maoists as terrorists under E.O. 13224, it would be difficult for us to insist that the GON sign any agreement that seems to put this friendly government and an organization we regard as terrorist on the same level. That said, yet another public statement from the GON reiterating its commitment to human rights that is not accompanied by detailed steps it pledges to take to fulfill that commitment is unlikely to improve the worsening climate of impunity and non-transparency. Stand-alone technical assistance to the NHRC, without a concrete commitment from the GON that it will improve implementation of NHRC recommendations, would be similarly insufficient. We therefore recommend the following:

--Support for OHCHR's proposal to provide technical assistance to the NHRC, as long as such assistance is not linked to the GON's signing of the human rights accord. (Per Ref A, an OHCHR representative suggested the two could be delinked.)

--Continued dialogue between the Embassy and the GON to urge the possibility of human rights monitors.

--Continued emphasis on the importance of human rights in our engagement, including training for the security forces, with the GON.

--We should not pressure the GON to sign the human rights accord. The problem with the accord is not its actual text. Many of the items listed are actions that the GON, according to its own law and its commitments under previously signed international conventions, should be doing anyway. The problem lies in the ham-fisted manner of its presentation to the GON--as something it would sign, along with the Maoists, as two equal parties to the conflict (Ref A). We should respect the GON's legitimate objections on this score and not insist it sign. On the other hand, we should urge the GON to consider committing to a concrete, detailed action plan to implement its obligations under a human rights agreement it has already signed as a sovereign government, e.g., the International Covenant on Civil and Political Rights.

MALINOWSKI